

**ASSEMBLY BILL**

**No. 76**

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**Introduced by Assembly Member Yamada**

December 17, 2008

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An act to amend Section 10127.17 of the Insurance Code, relating to life insurance and annuity products.

LEGISLATIVE COUNSEL'S DIGEST

AB 76, as introduced, Yamada. Life and Annuity Consumer Protection Fund.

Existing law creates the Life and Annuity Consumer Protection Fund as a special account within the Insurance Fund and requires that the moneys deposited therein, from a \$1 fee levied against insurers based upon each individual life insurance and annuity product worth \$15,000 or more issued to a resident of this state, be dedicated to protecting consumers of insurance products. Under existing law, that provision is repealed as of January 1, 2010.

This bill would extend the operation of that provision to January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 10127.17 of the Insurance Code is
- 2 amended to read:
- 3 10127.17. (a) The Life and Annuity Consumer Protection
- 4 Fund is hereby created as a special account within the Insurance
- 5 Fund. Each insurer admitted to transact insurance in this state shall

1 pay a fee to be determined by the commissioner, not to exceed one  
2 dollar (\$1), for each individual life insurance policy and each  
3 individual annuity product that it issues to a resident of this state  
4 with a value of fifteen thousand dollars (\$15,000) or more. If an  
5 insurer elects to charge the purchaser of a life insurance policy or  
6 annuity product this fee, the fee shall be set forth as a separate  
7 charge in the contract schedule or premium notice. Life insurance  
8 or annuity forms are not required to be filed again for review as a  
9 consequence of this provision. This fee shall be assessed on all  
10 new individual life insurance policies and annuity products issued  
11 during the prior 12 months, and shall be deposited into the Life  
12 and Annuity Consumer Protection Fund.

13 (b) Moneys in the Life and Annuity Consumer Protection Fund  
14 shall be distributed by the commissioner and shall be exclusively  
15 dedicated to protecting consumers of life insurance and annuity  
16 products in this state. Moneys in the fund shall not be used for any  
17 other purpose.

18 (c) Fifty percent of these funds shall be distributed within the  
19 department for consumer protection functions related to individual  
20 life insurance and annuity products, including, but not limited to:

21 (1) Investigating and prosecuting financial abuse by insurance  
22 licensees, or persons holding themselves out to be insurance  
23 licensees, or any person purporting to be engaged in the business  
24 of insurance.

25 (2) Responding to consumer inquiries and complaints related  
26 to life insurance or annuity products.

27 (3) Educating consumers in all aspects of life insurance and  
28 annuity products, consumer protection, purchasing and using  
29 insurance and annuity products, claim filing, benefit delivery, and  
30 dispute resolution.

31 (4) Regulating and overseeing life insurance and annuity  
32 products and advertising for these products directed toward  
33 consumers.

34 (d) Fifty percent of the funds shall be distributed to district  
35 attorneys for investigating and prosecuting individual life insurance  
36 and annuity product financial abuse cases involving insurance  
37 licensees, or persons holding themselves out to be insurance  
38 licensees, or any person purporting to be engaged in the business  
39 of insurance, and for other projects beneficial to insurance  
40 consumers.

1 (1) The commissioner shall distribute funds to district attorneys  
2 who are able to show a likely positive outcome that will benefit  
3 consumers in the local jurisdiction based on specific criteria  
4 promulgated by the commissioner. Each local district attorney  
5 desiring a portion of those funds shall submit to the commissioner  
6 an application, including, at a minimum:

7 (A) The proposed use of the moneys and the anticipated  
8 outcome.

9 (B) A list of all prior relevant cases or projects and a copy of  
10 the final accounting for each. If cases or projects are ongoing, the  
11 most recent accounting shall be provided.

12 (C) A detailed budget, including salaries, and general expenses,  
13 and specifically identifying the cost of purchase or rental of  
14 equipment or supplies.

15 (2) Each district attorney that receives funds pursuant to this  
16 section shall submit a final detailed accounting at the conclusion  
17 or closure of each case or project. For cases or projects that  
18 continue longer than six months, interim accountings shall be  
19 submitted every six months, or as otherwise directed by the  
20 commissioner.

21 (3) Each district attorney that receives funds pursuant to this  
22 section shall submit a final report to the commissioner, that may  
23 be made public, as to the success of the case or project conducted.  
24 The report shall provide information and statistics on the number  
25 of active investigations, arrests, indictments, and convictions. The  
26 applications for moneys, the distribution of moneys, and the annual  
27 reports shall be public documents.

28 (4) Notwithstanding any other provision of this section,  
29 information submitted to the commissioner pursuant to this section  
30 concerning criminal investigations, whether active or inactive,  
31 shall be confidential.

32 (5) The commissioner may conduct a fiscal audit of the programs  
33 administered under this subdivision. This fiscal audit shall be  
34 conducted by an internal audit unit of the department. The cost of  
35 any fiscal audits shall be paid for from the Life and Annuity  
36 Consumer Protection Fund established by this section.

37 (6) If the commissioner determines that a district attorney is  
38 unable or unwilling to investigate or prosecute a relevant financial  
39 abuse case, the commissioner may discontinue distribution of funds

1 allocated for that matter and may redistribute those funds to other  
2 eligible district attorneys.

3 (e) The funds received under this section shall be deposited in  
4 the Life and Annuity Consumer Protection Fund within the  
5 Insurance Fund, and shall be expended and distributed as  
6 appropriated by the Legislature for the purposes of this section.  
7 The total amount contained in the Life and Annuity Consumer  
8 Protection Fund shall not exceed five million dollars (\$5,000,000)  
9 annually. If, as of June 30 of any calendar year, the moneys in the  
10 fund exceed this amount, the commissioner shall adjust the amount  
11 of the assessment for the following year. An insurer, upon receipt  
12 of an invoice, shall transmit payment to the department for deposit  
13 in the Life and Annuity Consumer Protection Fund. Any balance  
14 remaining in the Life and Annuity Consumer Protection Fund at  
15 the end of the fiscal year shall be retained in the account and carried  
16 forward to the next fiscal year.

17 (f) The commissioner may develop guidelines for implementing  
18 or clarifying these provisions, including guidelines for the  
19 allocation, distribution, and potential return of unused funds. The  
20 commissioner may, from time to time, issue regulations for  
21 implementing or clarifying these provisions.

22 (g) This section shall remain in effect only until January 1, ~~2010~~,  
23 2015, and as of that date is repealed, unless a later enacted statute,  
24 that is enacted before January 1, ~~2010~~, 2015, deletes or extends  
25 that date.